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theory that the wife was subrogated to the rights of the tradesmen who had furnished the necessities. There seemed no precedent in the books for such a decision and but little justification on reason. See 9 MICH. L. REV. 441. Here the court rejects the subrogation doctrine and places its decision on the husband's duty to support his wife and children, and the removal of the wife's Common Law disability to hold separate property and to sue. This ground, though better supported by reason, seems almost equally lacking in justification from the reports. The court's first premise, that if a parent neglects to furnish necessities for his infant children, any other person furnishing them may recover their price from the father on an implied promise to pay, may be taken as established law, although a respectable group of authorities holds to the contrary. The courts have, however, denied this right of recovery to the *wife*, where she had been awarded the custody of the child in a divorce proceeding, *Husband v. Husband*, 67 Ind. 583, 33 Am. Rep. 107; where it is directed by State statutes that both parents are to support the children, *Johnson v. Barnes*, 69 Ia. 641, 29 N. W. 759; and where there existed no express promise to reimburse, *Lapworth v. Leach*, 79 Mich. 16, 44 N. W. 338. *Alvey v. Hartwig*, 106 Md. 254, 67 Atl. 132, 11 L. R. A. (N. S.) 678 is the only discoverable case which allows the wife a recovery and the court there goes farther than in our principal case; although custody of the children had been awarded the wife in a divorce proceeding, it was held that the husband's responsibility is primary, and that a wife who has expended money for the support of their children can compel him to reimburse her. The New York court's second premise, that one who has advanced money to a deserted wife for the purchase of necessities, may recover in equity from the husband, is also established law but there is not discoverable a single case allowing the right of recovery in such a case, to the *wife* herself. In the principal case the court does not attempt to cite case authority for its conclusion but argues that, the husband being unquestionably under obligation to provide necessities suitable to their condition, for his wife and children, this obligation would have been enforceable at Common Law except for the wife's disability to sue. This disability having been removed, the court concludes that the wife may now recover.

INTOXICATING LIQUORS—REGULATION—PROHIBITION—POLICE POWER.—Suit for breach of contract to buy "Poinsetta" from plaintiffs. Defense that the beverage was prohibited by law from being sold. "Poinsetta" is sold as a beverage, is composed of 90.45 per cent distilled water, 9.55 per cent of solids derived from cereals, is unfermented and non-intoxicating, has not the appearance, taste, or odor of intoxicating liquor, cannot be employed as a subterfuge, contains no alcohol, preservatives or saccharine, but does contain 5.73 percent malt. MISS., ACTS OF 1908, § 1, p. 116, prohibits the sale of any vinous, alcoholic, malt, intoxicating, or spirituous liquors. *Held*, the Act of 1908, in so far as it prohibits the sale of non-intoxicating malt liquors, is not unconstitutional as beyond the police power and that "Poinsetta" being a "malt" liquor, its sale was prohibited. *Purity Extract & Tonic Co. v. Lynch* (Miss., 1911), 56 South. 316.

The weight of authority is with the principal case in holding that a statute which prohibits or regulates the sale of a certain class of liquors without qualification, includes non-intoxicating liquors of that class. *State v. Spaulding*, 61 Vt. 509; *Eaves v. State*, 113 Ga. 749; *Bradshaw v. State*, 76 Ark. 562; *Merkle v. State*, 37 Ala. 139; *Eureka Vinegar Co. v. Gazette Print. Co.*, 35 Fed. 570; *People v. Kinney*, 124 Mich. 486; *State v. Jenkins*, 64 N. H. 375; and cases cited in note 20 L. R. A. (N. S.) 1146, and 26 L. R. A. (N. S.) 895. *Contra*: *City of Bowling Green v. McMullen*, 134 Ky. 742, 26 L. R. A. (N. S.) 895; *Roberts v. State*, 4 Ga. App. 207; *Hardwick v. State*, 55 Tex. Crim. App. 140; *Stoner v. State*, 5 Ga. App. 716. The regulation of the sale of intoxicating liquors is wholly within the police power of the State, to be exercised in such manner as it deems proper. *Beer Co. v. Mass.*, 97 U. S. 25; *Council of Farmville v. Walker*, 101 Va. 323, 99 Am. St. Rep. 870; notes to *Booth v. People*, 78 Am. St. Rep. 253, and to *Commonwealth v. Kimball*, 35 Am. Dec. 331-339. And the legislature has the power in its regulation of the liquor traffic, to declare certain liquors intoxicating when in fact they may not be. *State v. Gravelin*, 16 R. I. 407; *Commonwealth v. Brelsford*, 161 Mass. 61; *State v. O'Connell*, 99 Me. 61; *State v. Certain Intoxicating Liquors*, 76 Iowa 243; *Maine v. Frederickson*, 101 Me. 37; *Sawyer v. Botti*, 147 Iowa 453. The power to regulate and control the sale of non-intoxicating alcoholic liquor does not destroy the power of the legislature to regulate the sale of such non-intoxicating alcoholic liquors, where such regulation is necessary to control the traffic in intoxicating liquors. *Commonwealth v. Henry*, 110 Va. 879; *Pennell v. State*, 141 Wis. 35. This applies where such non-intoxicating liquor may be used as a subterfuge. But certainly the purpose of the law-makers in enacting all local option laws is to prohibit and prevent the evils of intemperance caused by the use of intoxicating liquors. Where, as in the principal case, the beverage is non-intoxicating, unfermented, and could not be used as a subterfuge, it must lead to injustice to apply the strict letter, rather than the spirit, of the enactment. Would it not be a reasonable and proper construction of the statute to say that the object of the law was to regulate the sale of malt "liquors" and not malt "liquids?"

MORTGAGES UPON PROPERTY OF CONSTITUENT COMPANIES BECOME A LIEN UPON THE PROPERTY OF A CONSOLIDATED COMPANY.—The Wilmington & New Castle Electric Railway Co. mortgaged to the plaintiff all its real property, "together with all the rolling stock, tools, machinery, implements and materials now belonging or which may hereafter belong to said Railway Company, and now or hereafter in use, or intended for use upon said railways or property," etc. The mortgagor and the New Castle and Delaware City Railway Co. afterwards consolidated and merged into the Wilmington, New Castle and Southern Railway Co. The statute under which the consolidation was effected provided, among other things, that "all the rights of creditors, and all liens upon the property of either of said former corporations, shall be preserved unimpaired, and all debts, liabilities and duties of the respective former corporations shall thenceforth attach to said consolidated corporation." The agreement of consolidation and merger con-